

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JEROME JUNIOR WASHINGTON,

No. 4:21-CV-01746

Plaintiff,

(Chief Judge Brann)

v.

SUPERINTENDENT SALAMON, *et
al.*,

Defendants.

ORDER

AND NOW, this 15th day of December 2023, in accordance with the accompanying Memorandum, **IT IS HEREBY ORDERED** that:

1. Defendant's motion (Doc. 74) to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6) is **GRANTED**.
2. Plaintiff's Eighth Amendment claim for deliberate indifference to serious medical needs against defendant Dr. Weber is **DISMISSED** with prejudice for failure to state a claim upon which relief may be granted.
3. Plaintiff's official capacity claim against Dr. Weber is **DISMISSED** pursuant to 28 U.S.C. § 1915(e)(2)(B)(i) and (ii) as legally frivolous and for failure to state a claim upon which relief may be granted.
4. In the event that Plaintiff attempts to appeal this decision *in forma pauperis* under the exception provided by Federal Rule of Appellate Procedure 24(a)(3), he may not do so. Plaintiff "is not otherwise entitled to proceed *in forma pauperis*"¹ because he has incurred 3 strikes under 28 U.S.C. § 1915(g). That is, Plaintiff "has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state

¹ See FED. R. APP. P. 24(a)(3)(A).

a claim upon which relief may be granted,”² and he is not “under imminent danger of serious physical injury”³ with respect to any claim or allegation in this case.

5. The Clerk of Court is directed to CLOSE this case.

BY THE COURT:

s/ Matthew W. Brann

Matthew W. Brann
Chief United States District Judge

² 28 U.S.C. § 1915(g); *see Washington v. Weiner*, 2:16-cv-2487 (E.D. Pa.); *Washington v. Myers*, 4:22-cv-1858 (M.D. Pa.); *Washington v. Wright*, 2:22-cv-1201 (W.D. Pa.); *Washington v. Britte*, 2:22-cv-1202 (W.D. Pa.); *Washington v. Salamon*, 4:23-cv-1659 (M.D. Pa.).

³ 28 U.S.C. § 1915(g).